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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,522	06/21/2001	Hans Artmann	10191/1894	6400

7590 01/29/2003
KENYON & KENYON
One Broadway
New York, NY 10004

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/886,522

Applicant(s)

ARTMANN ET AL.

Examiner

Alicia Chevalier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-15 in Paper No. 7 is acknowledged.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 2-6, 13 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "corresponds" in claim 2 is unclear which renders the claims vague and indefinite. Claim 2 recites "the micromechanical component corresponds to a sensor element." It is unclear from the claim language if the micromechanical component is a sensor element, related to a sensor element (which is vague and indefinite), or next to a sensor element. From the specification it appears that the micromechanical component is a sensor element and is considered to be so for purposes of examination.

Claims 3 and 4 are indefinite because they fail to set forth the composition or structure of the at least one stabilizing element and only claim properties of the stabilizing element. Claims that merely set forth physical characteristics desired in an article, and not setting forth specific compositions which would meet such characteristics are invalid as vague, indefinite, and

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functional since they cover any conceivable combination of ingredients either presently existing or which might be discovered in the future. *Ex parte Slob* (PO BdApp) 157 USPQ 172.

The terms “mesh-like” and “grid-like” in claim 5 is unclear which renders the claims vague and indefinite. The addition of the word “like” to an otherwise definite expression extends the scope of the expression so as to render it indefinite.

The term “ring-shaped skirt” in claim 6 is unclear which renders the claim vague and indefinite. It is unclear from the specification and the drawings what skirt encompasses or what kind of shape it is.

Claim 6 recites the limitation "one of recesses and etching holes in the at least one membrane" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. Claim 6 depends from claim 1, which does recite that the membrane comprises recesses or holes.

The term “arranged” in claim 13 is unclear which renders the claim vague and indefinite. It is unclear what is encompassed by the term “arranged.”

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-10, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mehregany et al. (5,712,609).

Mehregany discloses a micromechanical memory sensor comprising a silicon substrate (supporting body), an n-doped polysilicon layer (at least one stabilizing element/web), and a silicon nitride layer (at least one at least partially unsupported membrane) with at least one recess area (figure 7 and col. 5, lines 44-59). The sensor further comprises a top layer of metal (circuit structure/sensitive component) (col. 5, lines 44-47).

Although Mehregany does not explicitly teach the limitations the at least one stabilizing element counteracts a deformation of the at least one membrane, where the deformation includes warping, propagation of cracks or stresses, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. silicon) and in the similar production steps (i.e. n-doped) used to produce the stabilizing layer. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594.

6. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Leedy (5,834,334).

Leedy discloses a semiconductor device comprising a ring shaped frame made of silicon nitride (supporting body), a first dielectric membrane (partially unsupported membrane), a second dielectric membrane (at least one stabilizing element/web) and a plurality of semiconductor devices (circuit structure/sensitive component) (figure 3a and col. 9, lines 6-30). The thickness of the dielectric membranes may vary from less than 2 μm to over 15 μm per layer of interconnect metallization layer (col. 9, lines 11-13).

Although Leedy does not explicitly teach the limitations the at least one stabilizing element counteracts a deformation of the at least one membrane, where the deformation includes warping, propagation of cracks or stresses, it is reasonable to presume that said limitations are

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inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. silicon compound) used to produce the stabilizing layer. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594.

Conclusion

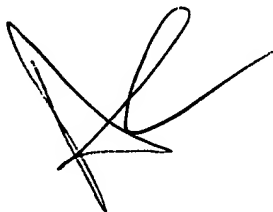
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (703) 305-1139. The Examiner can normally be reached on Monday through Thursday from 8:00 a.m. to 5:00 p.m. The Examiner can also be reached on alternate Fridays


If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Harold Pyon can be reached by dialing (703) 308-4251. The fax phone number for the organization official non-final papers is (703) 872-9310. The fax number for after final papers is (703) 872-9311.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose phone number is (703) 308-0661.

ac

1/15/03




HAROLD PYON
SUPERVISORY PATENT EXAMINER
1/17/03

1/22/03